

REMARKS

Claims 1-34 are pending in the present application.

The Examiner has imposed a Restriction Requirement for a third time. The Examiner now requires election in the present application between:

Group I, claims 1-10 and 15, drawn to a first alkaline battery, classified in Class 429, subclass 206;

Group II, claims 11-14, drawn to a first method of making an alkaline battery, classified in Class 29, subclass 623.5;

Group III, claims 16-29, drawn to a second alkaline battery/second method of making, classified in Class 429, subclass 206; and

Group IV, claims 30-34, drawn to a third method of making an alkaline battery, classified in Class 29, subclass 623.1.

For the purpose of examination of the present application, Applicants elect, with traverse, Group III, Claims 16-29.

According to MPEP §803, if the search and examination of an entire application can be made without a serious burden, the Examiner *must* examine it on the merits, even though it includes claims to independent or distinct inventions.

As evidence of the undue burden, the Examiner has listed that class 429/subclass 206 is to be searched for Group I. However, this is the same subclass necessary for searching for elected Group III.

Furthermore, the Examiner states on page 3, 4th full paragraph of the December 29, 2006 Restriction Requirement that "Group I is distinct from Group III because the former does not comprise the claimed amounts of water as does the latter and Group III does not include the dual amounts of potassium hydroxide as does Group I." However, simple changes in amounts of water and potassium hydroxide should not significantly affect the scope of the search.


Accordingly, the Examiner has not established that there is an undue burden to search for the subject matter of Group III and Group I, and rejoinder of Group I with elected Group III is respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Esq., Registration No 43,575 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: January 29, 2007

Respectfully submitted,

By  #43575
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